



This document is scheduled to be published in the Federal Register on 09/25/2015 and available online at <http://federalregister.gov/a/2015-24414>, and on FDsys.gov

Billing Code: 4510-28-P

DEPARTMENT OF LABOR

Office of the Secretary

**United States-Peru Trade Promotion Agreement
Notice of Determination Regarding Review of Submission #2015-01**

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice.

SUMMARY: The Office of Trade and Labor Affairs (OTLA) gives notice that on September 21, 2015, Submission #2015-01 regarding Peru was accepted for review pursuant to Article 17.5.5 of the United States-Peru Trade Promotion Agreement (PTPA).

On July 23, 2015, the International Labor Rights Forum, *Perú Equidad*, and seven Peruvian workers' organizations provided a formal submission to OTLA alleging violations of Chapter 17 (the Labor Chapter) of the PTPA by the Government of Peru (GOP). The submission alleges that the GOP has failed to adopt and maintain in its statutes and regulations, and practices thereunder, the right of freedom of association and the effective recognition of the right to collective bargaining, and that it has also failed to effectively enforce its labor laws with respect to freedom of association, collective bargaining, and acceptable conditions of work.

OTLA's decision to accept the submission for review is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review will be to gather information so that OTLA can better understand the allegations contained in the submission and publicly report on the issues raised therein in light of the GOP's obligations under the Labor Chapter of the PTPA. As set out in the Procedural Guidelines (published as 71 FR 76691, December 21, 2006), OTLA will complete the review and issue a public report to the Secretary of Labor within 180 days of this acceptance, unless circumstances, as determined by OTLA, require an extension of time.

DATES: Effective Date: September 21, 2015.

FOR FURTHER INFORMATION CONTACT: Matthew Levin, Director, OTLA, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-5303, Washington, DC 20210. Telephone: (202) 693-4900. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Article 17.5 of the Labor Chapter of the PTPA establishes that each Party's contact point shall provide for the submission, receipt, and consideration of communications ("submissions") on matters related to the Labor Chapter and each Party shall review those submissions in accordance with domestic procedures. A *Federal Register* notice issued on December 21, 2006, informed the public that the OTLA had been designated as the office to serve as the contact point for implementing the labor provisions of United States free trade agreements. The same *Federal Register*

notice informed the public of the Procedural Guidelines that OTLA would follow for the receipt and review of public submissions (71 FR 76691, December 21, 2006). These

Procedural Guidelines are available at

<http://www.dol.gov/ilab/media/pdf/2006021837.pdf>. According to the definitions

contained in the Procedural Guidelines (Section B) a “submission” is “a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter” of a U.S. free trade agreement.

The Procedural Guidelines specify that OTLA shall consider six factors, to the extent that they are relevant, in determining whether to accept a submission for review:

1. Whether the submission raises issues relevant to any matter arising under a labor chapter;
2. Whether a review would further the objectives of a labor chapter;
3. Whether the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;
4. Whether the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter;
5. Whether the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the

other Party, or that the matter or a related matter is pending before an international body; and

6. Whether the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

U.S. Submission # 2015-01 alleges that, by permitting the unlimited consecutive renewal of short-term contracts under the Law Promoting Non-Traditional Exports (Law No. 22342) and Article 80 of the Law of Productivity and Labor Competitiveness (Law No. 728, Supreme Decree No. 003-97-TR), the GOP has failed to adopt and maintain, in its statutes and regulations, and practices thereunder, the right of freedom of association and the effective recognition of the right to collective bargaining. The submission also cites specific instances to support its allegation that the GOP, through its action or inaction, has failed to effectively enforce its labor laws in the non-traditional export and agricultural sectors with respect to freedom of association, the effective recognition of the right to collective bargaining, and acceptable conditions of work.

In determining whether to accept the submission, OTLA considered the statements in the submission in light of the relevant factors identified in the Procedural Guidelines. The submission raises issues relevant to the Labor Chapter of the PTPA because it cites alleged GOP failures to adopt and maintain in its statutes and regulations, and practices thereunder, freedom of association and the effective recognition of the right to collective bargaining, and alleged GOP failures to effectively enforce its labor laws with respect to

freedom of association, collective bargaining, and acceptable conditions of work. It also clearly identifies the submitter and is sufficiently specific to determine the nature of the request and permit an appropriate review. The submission raises pertinent issues that could further the objectives of the Labor Chapter and that could, if substantiated, constitute a failure of the GOP to comply with its obligations under the Labor Chapter. The submitters provided information on specific cases of alleged labor violations and included citations to both Peruvian law and International Labor Organization (ILO) Conventions ratified by Peru that they believe were violated by the allegations in the submission. The submitters provided information on efforts to seek appropriate relief for these alleged violations under domestic laws and to raise the issues with GOP officials and with the ILO. The submission also notes that the issues raised in the submission have not been remedied to date. OTLA has not received similar submissions related to the PTPA obligations of the GOP. Accordingly, OTLA has accepted the submission for review.

OTLA's decision to accept the submission for review is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review will be to gather information so that OTLA can better understand the allegations contained in the submission and to publicly report on the issues raised therein. As set out in the Procedural Guidelines, OTLA will complete the review and issue a public report to the Secretary of Labor within 180 days, unless circumstances, as determined by OTLA, require an extension of time. The public report

will include a summary of the review process, as well as any findings and recommendations.

Signed at Washington, DC, on September 21, 2015.

Carol Pier

Deputy Undersecretary for International Affairs

[FR Doc. 2015-24414 Filed: 9/24/2015 08:45 am; Publication Date: 9/25/2015]